

## 32.304-2 Certificate of eligibility.

(a) The *contracting officer shall* prepare the certificate of eligibility for a contract that the *contracting officer* deems to be of material consequence, when-

(1) The contract financing office requests it;

(2) Another interested agency requests it; or

(3) The application for a loan guarantee relates to a contract or subcontract within the cognizance of the *contracting officer*.

(b) The agency *shall* evaluate the relevant data, including the certificate of eligibility, the accompanying data, and any other relevant information on the contractor's financial status and performance, to determine whether authorization of a loan guarantee would be in the Government's interest.

(c) If the contractor has several major *national defense* contracts, it is normally not necessary to evaluate the eligibility of relatively minor contracts. The determination of eligibility *should* be processed, without delay, based on the preponderance of the amount of the contracts.

(d) The certificate of eligibility *shall* include the following determinations:

(1) The *supplies* or services to be acquired are essential to the *national defense*.

(2) The contractor has the facilities and the technical and management ability required for contract performance.

(3) There is no practicable *alternate* source for the *acquisition* without prejudice to the *national defense*. (This statement *shall* not be included if the contractor is a small business concern.)

(e) The *contracting officer shall* consider the following factors in determining if a practicable *alternate* source exists:

(1) Prejudice to the *national defense*, because reletting of a contract with another source would conflict with a major policy on defense *acquisition*; *e.g.*, policies relating to the mobilization base.

(2) The urgency of contract performance schedules.

(3) The technical ability and facilities of other potential sources.

(4) The extent to which other sources would need contract financing to perform.

(5) The willingness of other sources to enter into contracts.

(6) The time and expense involved in repurchasing for contracts or parts of contracts. This *may* include potential *claims* under a *termination for convenience* or delays incident to default at a later date.

(7) The comparative prices available from other sources.

(8) The disruption of established subcontracting arrangements.

(9) Other pertinent factors.

(f) The *contracting officer shall* attach sufficient data to the certificate of eligibility to support the determinations made. Available pertinent information *shall* be included on-

(1) The contractor's *past performance*;

(2) The relationship of the contractor's operations to performance schedules; and

(3) Other factors listed in paragraph (e) of this section, if relevant to the case under consideration.

(g) If the *contracting officer* determines that a certificate of eligibility is not justified, the facts and reasons supporting that conclusion *shall* be documented and furnished to the agency contract finance office.

(h) The *guaranteeing agency shall* review the proposed guarantee terms and conditions. If they are considered appropriate, the *guaranteeing agency shall* complete a standard form of authorization as prescribed by the *Federal Reserve Board*. The agency *shall* transmit the authorization through the *Federal Reserve Board* to the Federal Reserve Bank. The Bank is authorized to execute and deliver to the financing institution a standard form of guarantee agreement, with the terms and conditions approved for the particular case. The financing institution will then make the loan.

(i) Substantially the same procedure *may* be followed for the application of an *offeror* who is actively negotiating or bidding for a defense contract, except that the guarantee *shall* not be authorized until the contract has been executed.

(j) The *contracting officer shall* report to the agency contract finance office any information about the contractor that would have a potentially adverse impact on a pending guarantee application. The *contracting officer* is not required, however, to initiate any special investigation for this purpose.

(k) With regard to existing contracts, the agency *shall* not consider the percentage of guarantee requested by the financing institution in determining the contractor's eligibility.

**Parent topic:** 32.304 Procedures.